

ORDINANCE No.

1186-12Council Bill No. 11115

AN ORDINANCE relating to the transfer of land in the I-90  
Redevelopment Project area; authorizing the acceptance  
of the deed to I-90 Parcel 37 from the State of  
Washington, Department of Transportation; authorizing  
the sale of approximately 1.8 acres of such land to  
HomeSight for development of housing for sale to first-  
time home buyers; authorizing a contract for sale of land  
and deeds; and ratifying and confirming prior acts.

COUNCIL BILL NO.

|                         |              |                 |  |
|-------------------------|--------------|-----------------|--|
| Introduced:             | MAR 25 1996  | By:             | CHOW   |
| Referred:               | MAR 25 1996  | To:             | Health, Housing, Human<br>Services, Education &<br>Libraries Committee |
| Referred:               |              | To:             |  |
| Reported:               | APR 1 - 1996 | Second Reading: | APR 1 - 1996   |
| Third Reading:          | APR 1 - 1996 | Signed:         | APR 1 - 1996   |
| Presented to Mayor:     | APR 2 - 1996 | Approved:       | APR 9 1996   |
| Returned to City Clerk: | APR 9 1996   | Published:      | title  |
| Vetoed by Mayor:        |              | Veto Published: |  |
| Passed over Veto:       |              | Veto Sustained: |  |

U95047

Law Department

The City of Seattle--Leg

REPORT OF CO

orable President:

Committee on Health, Housing, Human Services

which was referred the within Council Bill No. 11115  
that we have considered the same and respectfully re

3/27/96 Passed 3-0

Full Council vote

Committee C

*Law Department*

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported  
and Adopted

able President:

Committee on Health, Housing, Human Services, Education + Libraries

ch was referred the within Council Bill No. CB 11175  
that we have considered the same and respectfully recommend that the same:

3/27/96 Passed 3-0

Full Council vote 9-0

*Legi Chow*

Committee Chair

ORDINANCE

118072

AN ORDINANCE relating to the transfer of land in the I-90 Redevelopment Project area; authorizing the acceptance of the deed to I-90 Parcel 37 from the State of Washington, Department of Transportation; authorizing the sale of approximately 1.8 acres of such land to HomeSight for development of housing for sale to first-time home buyers; authorizing a contract for sale of land and deeds; and ratifying and confirming prior acts.

WHEREAS, the I-90 Area Development Policies, adopted August 28, 1989, by Resolution 27901 and amended December 11, 1995, by Resolution 29258 ("I-90 Policies") are the basic City policy governing the sale and development of publicly-owned land in the project area; and

WHEREAS, the City's goal articulated in Resolution 27901 is to encourage the replacement of lost housing and commercial development on such surplus property through a planned program of new housing and commercial construction; and

WHEREAS, the Washington State Department of Transportation (WSDOT) is prepared to convey certain land owned by WSDOT, located in the County of King, State of Washington, identified as Parcel 37 in the I-90 Policies and more particularly described on Exhibit A attached hereto (the "Property"), to the City of Seattle in partial compensation for park lands taken for the construction of I-90; and

WHEREAS, The City of Seattle has negotiated an agreement with the State of Washington, Department of Transportation, ("WSDOT") regarding mutual interests in and maintenance of approximately 50 acres of open space and recreation areas along the I-90 corridor, in addition to any land to be conveyed to the City as replacement for lands taken; and

WHEREAS, Parcel 37 is designated in the I-90 Policies as a site for development of housing; and

WHEREAS, HomeSight is a nonprofit community development corporation engaged in development of affordable housing for home ownership in the Central Area and Southeast Seattle and has received a grant from the federal government for such purpose under the Nehemiah Housing Opportunity Program; and

WHEREAS, the 1992 Memorandum of Understanding between the City and HomeSight authorized by Resolution 28498 contemplates the sale of a portion of I-90 Parcel 37 to HomeSight for the development of approximately 35 homes for first-time home buyers; Now, Therefore,

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

5 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

6 Section 1. The Mayor or his designee is hereby authorized,  
7 on behalf of The City of Seattle, to accept a deed to that certain  
8 real property, located in the City of Seattle, County of King,  
9 identified in the I-90 Policies as Parcel 37, and legally  
10 described in Exhibit A attached hereto (the "Property"). The deed  
11 may either include or exclude that portion of the Property  
12 described in the bracketed exception at the end of Exhibit A,  
13 which consists of a small portion of an undeveloped alley. The  
14 Mayor or his designee is authorized to request or accept any other  
15 minor adjustments to the legal description in order to conform it  
16 to the results of an accurate survey of the Property or to the  
17 proper boundaries of streets, alleys or structures, or to conform  
18 it to the State's vesting deeds. The deed from the State may  
19 reserve such easements and reservations as shall be acceptable to  
20 the Director of Housing and Human Services, to the extent they  
21 affect the portion of the Property to be sold for housing purposes  
22 pursuant to Exhibit B, or to the Superintendent of Parks and  
23 Recreation, to the extent they affect the remainder of the  
24 Property.

25  
26 Section 2. The sale by the City of Seattle to Homesight of  
27 that portion of Parcel 37 legally described on Exhibit B to this  
28 Ordinance ("Parcel 37A"), for the price of SEVENTY THOUSAND AND  
29 NO/100 DOLLARS (\$70,000), for the purpose of housing development,  
30 is hereby authorized, contingent upon delivery and acceptance of  
31 the deed to the Property, as provided in Section 1 above. The  
32 Mayor or his designee is authorized to make such minor adjustments  
33 to the legal description as may be required to conform to the  
final legal description in the State's deed to the City along  
those boundaries of Parcel 37A that are intended to be the same as  
those of Parcel 37.

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6 Section 3. The Director of the Department of Housing and  
7 Human Services ("Director") is hereby authorized, for and on  
8 behalf of the City, to enter into a Contract for Sale of Land  
9 ("Contract") with HomeSight substantially in the form attached  
10 hereto as Exhibit C and incorporated by this reference, provided,  
11 that if executed prior to receipt and acceptance of the deed from  
12 the State referred to above, then the City's obligation under the  
13 Contract shall be conditioned upon the completion of the  
14 conveyance from the State. The Director is further authorized to  
15 approve the developer or developers selected by HomeSight for  
16 Parcel 37A; to approve construction plans and changes thereto as  
17 being in conformity with the Contract and the I-90 Area  
18 Development Policies, to grant such consents and approvals and  
19 agree to such modifications as shall be consistent with the basic  
20 terms and purpose of the Contract, as she shall deem appropriate  
21 to carry out the intent of this ordinance, and to issue  
22 appropriate certifications when improvements contemplated in the  
23 Contract have been completed. The Director is authorized to  
24 provide in the Contract and in the Deed described in Section 4  
25 below for such reservations of easements or other restrictions as  
26 may be appropriate for utility or drainage purposes.

27  
28 Section 4. The Mayor or Director is authorized to execute  
29 and acknowledge, for and on behalf of the City, a Special Warranty  
30 Deed to Parcel 37A substantially in the form attached to this  
31 Ordinance as Exhibit D ("Deed"), with such modifications as may be  
32 appropriate in order to reflect the final legal description in the  
33 deed from the State and any easements or reservations therein, and  
to deliver and record the Deed upon satisfaction by HomeSight of  
the conditions in the Contract, contingent upon delivery and

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5 acceptance of the deed to the Property as provided in Section 1  
6 above.

7  
8 Section 5. Sales proceeds to the City shall be deposited in  
9 the Property Acquisition Subaccount of the Park and Recreation  
10 Fund, for the purpose of developing park and recreation facilities  
11 in the I-90 corridor.

12  
13 Section 6. The portion or portions of the Property not  
14 authorized for sale to HomeSight shall be retained by the City,  
15 under the jurisdiction of the Department of Parks and Recreation  
16 and shall be used for park and recreation purposes. To the extent  
17 that the City retains the underlying fee interest in any street or  
18 alley, such fee interest shall be under the jurisdiction of the  
19 Department of Parks and Recreation.  
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6 Section 7. Any act pursuant to the authority and prior to  
7 the effective date of this ordinance is hereby ratified and  
8 confirmed.  
9

10 Section 8. This ordinance shall take effect and be in force  
11 thirty (30) days from and after its approval by the Mayor, but if  
12 not approved and returned by the Mayor within ten (10) days after  
13 presentation, it shall take effect as provided by Municipal Code  
14 Section 1.04.020.  
15

16 PASSED by the City Council the 1 day of April,  
17 1996, and signed by me in open session in authentication of its  
18 passage this 1 day of April, 1996.  
19

20 Jan Deage  
President of the City Council

21 Approved by me this 9 day of April, 1996.  
22

23 Norman B. Rice  
Norman B. Rice, Mayor

24 Filed by me this 9 day of April, 1996.  
25

26 Judith E. Ruppini  
City Clerk

27 (SEAL)

28 Exhibits:

- 29 A. Legal Description, Parcel 37  
30 B. Legal Description, Parcel 37A  
31 C. Conditional Contract for Sale of Land and Attachments:  
32 A. Legal Description [See Exhibit B.]  
33 B. Form of Special Warranty Deed with Covenant and  
Condition Subsequent [See Exhibit D.]  
C. Description of Improvements  
D. Special Guidelines for Coordination of Parcel 37  
Development with I-90 Lid Park  
E. Form of Certificate of Completion  
F. Disclaimer of Warranties and Release  
D. Form of Special Warranty Deed for Parcel 37A

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**ATTACHMENT A**  
**to**  
**CONTRACT FOR SALE OF LAND**

See Exhibit B to Ordinance

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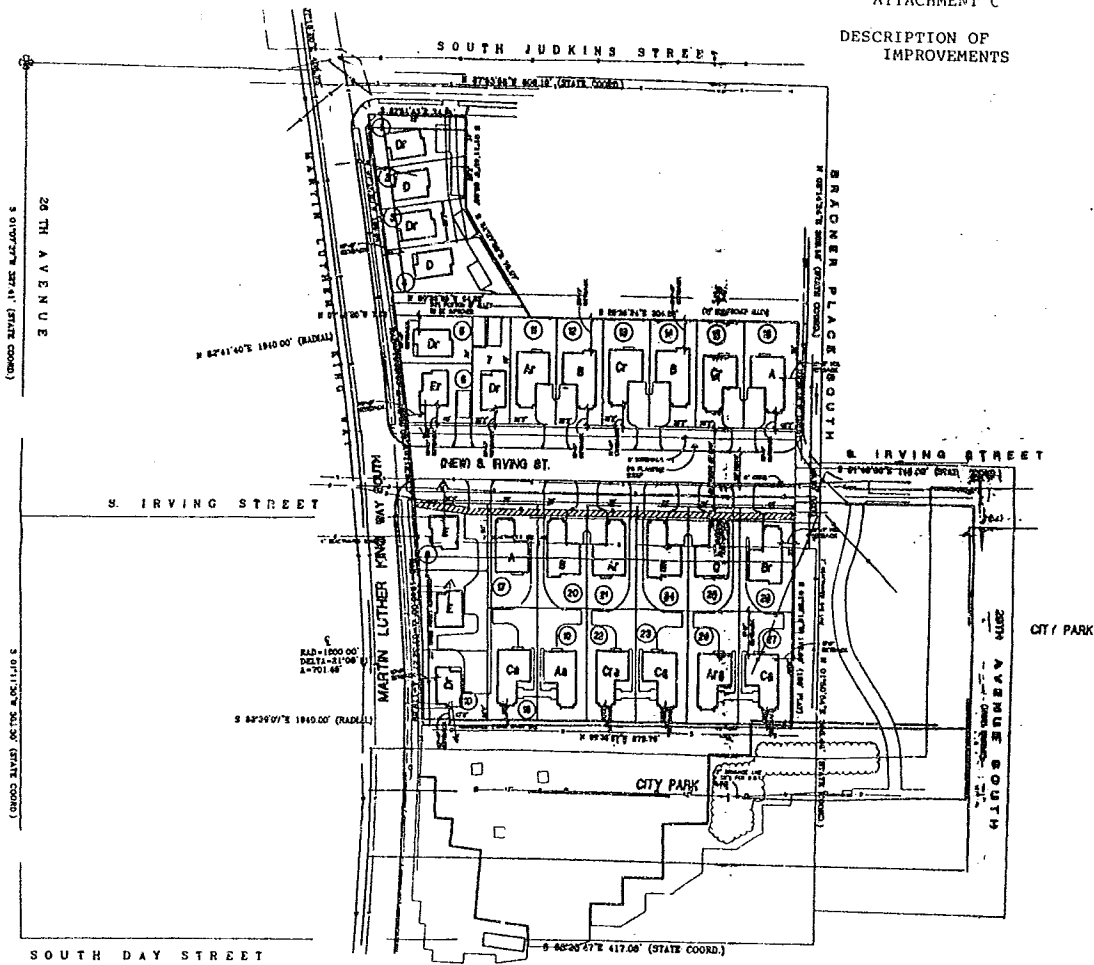


**ATTACHMENT B**  
**to**  
**CONTRACT FOR SALE OF LAND**

See Exhibit D to Ordinance

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ATTACHMENT C  
DESCRIPTION OF  
IMPROVEMENTS



PARCEL 37 SITE PLAN  
SCALE: 1" = 50'-0"



ATTACHMENT D

Special Guidelines for Coordination of Parcel 37 Dev. with I-90 Lid Park

**SOUTH IRVING STREET - PARCEL 37**

MARCH 21, 1996

**SUBJECT:** General guidelines for coordination of Planning, Design and Construction phases of the SOUTH IRVING STREET - Parcel 37 and adjacent I-90 Lid Park project areas.

**PLANNING PHASE:**

Homesight will set up a meeting between their Landscape Architectural consultant and the Seattle Department of Parks and Recreation (DOPAR) representatives, as soon as possible, to discuss the scope and specifics of all phases of the project. DOPAR will act as liaison with the Washington State Department of Transportation (WSDOT) in all matters related to this project. DOPAR will coordinate reviews, provide direction and pertinent design and construction standards, through Homesight, to the developer, in a timely manner.

The design and construction of a new perimeter fence (between Parcel 37 and public lands), fabricated of sturdy, long lasting materials (pressure-treated wood, vinyl coated chain-link fabric, metal and concrete), compatible with the architectural styles of the proposed housing units and the surrounding park areas, will be required. It is recommended that the fence design be similar to and consistent with other I-90 corridor fencing (see attached examples). It will, in conjunction with landscape buffering, provide a substantial visual buffer between the park and the housing site. Buffering of the buildings, while taking into account passive solar considerations, will be required. Views, onto and off of the site, will also be taken into consideration. In addition, other issues related to aesthetics and visual impacts, such as; signage, advertising, trash, paint colors, etc., will be considered and addressed during the design phase. It is permitted that the existing trees, shrubs and irrigation heads, valves and valve boxes, encountered during construction, be salvaged and reused within the restoration project areas (within reasonable limits of cost effectiveness). Anything that is not reasonable to be reused after the project needs are met, will be turned over to DOPAR. Removal and delivery to DOPAR, will be the responsibility of Homesight's developer and/or contractor.

**DESIGN PHASE:**

All design drawings pertaining to the transition from the proposed project to public land, will be reviewed by DOPAR representatives at each phase of the design process, in a timely manner. DOPAR will obtain all written review comments from WSDOT as quickly as possible and include those comments with its general reviews as required. Estimate a 10 working day turn-around for those reviews. Written responses to those review comments and/or revised plans and specs will be provided by the Homesight's developer, in a timely manner. Landscape and irrigation details and specifications (consistent with current WSDOT and DOPAR standards), and as-built information will be provided by DOPAR to Homesight, as requested.

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SOUTH IRVING STREET

MARCH 7, 1996

Page 2

The construction documents will clearly delineate the limits of all construction activities, including but not limited to; access, staging, traffic and erosion control, and will address the issues of noise and dust control. Any disruption of services (water, power, sewer, etc.) will be minimized and will require coordination and approval DOPAR prior to starting of work. Sufficient notice (10 days) will be given, prior to the beginning of construction activities.

CONSTRUCTION PHASE:

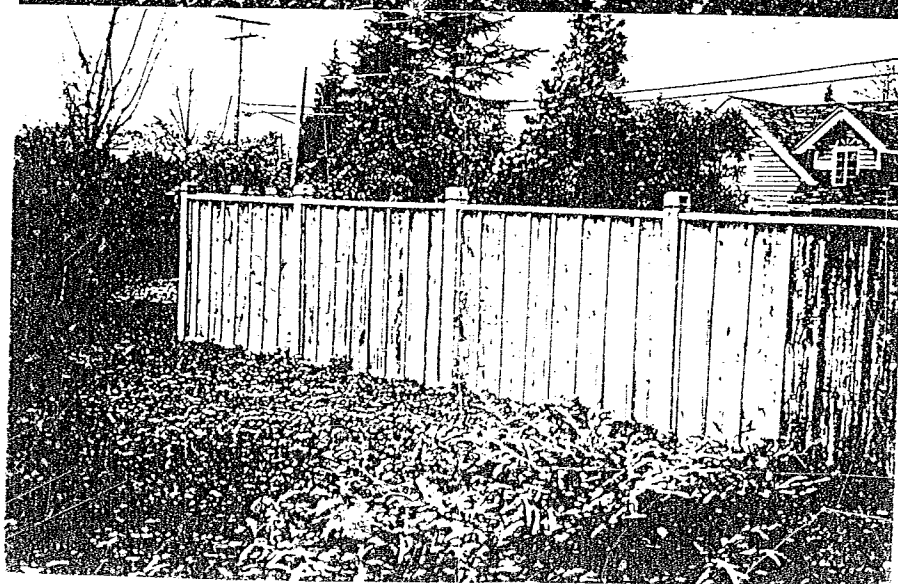
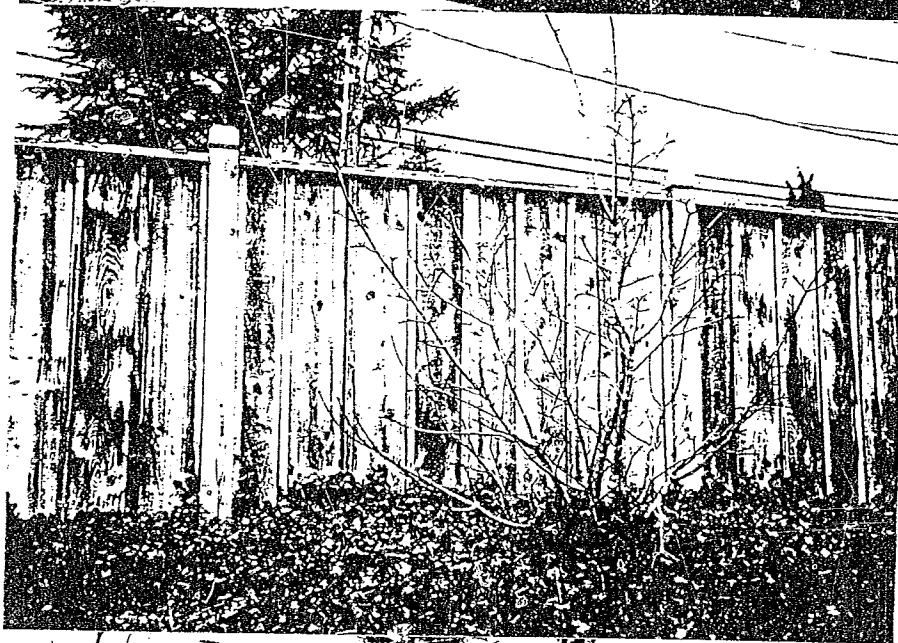
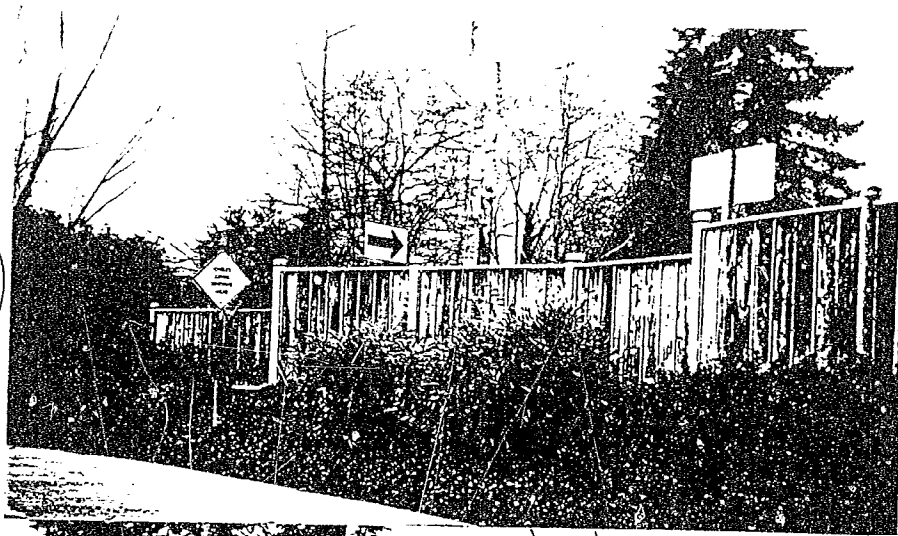
A permit for any construction activities outside the Parcel 37 property area, is required, and will be obtained from WSDOT by Homesight's developer prior to the beginning of any construction activities on those areas. A pre-construction meeting will be required, and will be conducted by Homesight's developer prior to the beginning of construction activities. Monitoring and inspection of construction activities, on any areas outside the project property, will also be required. The inspections will be performed by DOPAR and WSDOT representatives at no cost to Homesight or it's developer. The intent is that any impacts to the surrounding properties will be kept to an absolute minimum and that any damage to the surrounding areas will be restored to the condition that exists immediately prior to the beginning of construction activities.

DOPAR representatives will video tape the site prior to and during construction, and will make available a copy of the tape to Homesight or WSDOT, upon request. All modifications to the existing irrigation system will be performed in the presence of a DOPAR plumbing shop representative. Inspection of all new irrigation system construction will also be required and performed by DOPAR plumbers, with at least 48 hrs. notice given by Homesight's contractor. Visual inspection of piping (with trenches open), flushing of system, and supplemental pressure and coverage testing, will also be required.

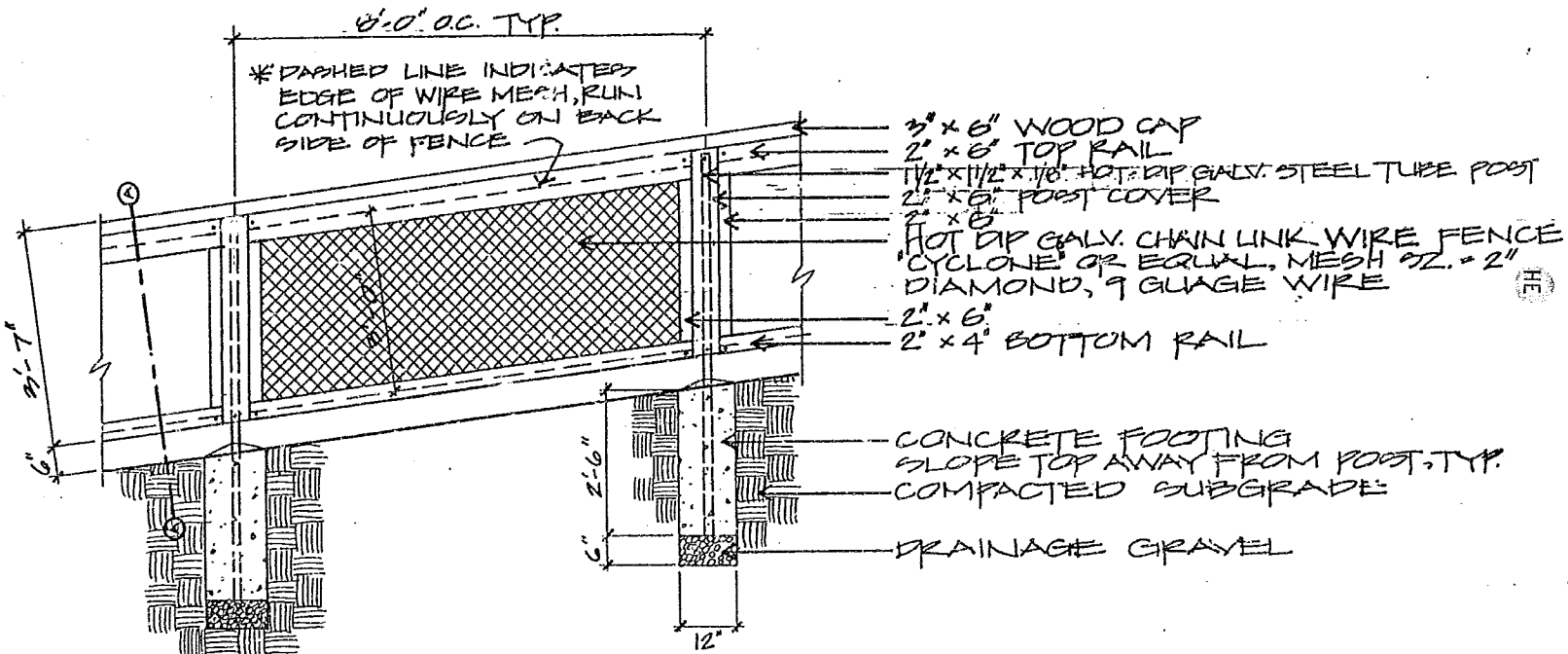
Specific site restoration construction activities such as; grading, drainage, irrigation, landscape construction, fencing, and hardscaping (curbing, paving, etc.) will adhere to standards that are consistent with the existing surrounding developed project areas. The intent is that the restored areas will be aesthetically compatible with the surrounding areas and provide a smooth transition from the park areas to the housing development. At physical completion of all construction activities outside the Parcel 37 property area, final inspections and written acceptance by DOPAR and WSDOT, will be required.

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EXAMPLE



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ELEVATION

SCALE: 1/2" = 1'-0"

DOPAR EXAMPLE

EXHIBIT "A"

Parcel 37

Part of BEMIS ADDITION TO THE CITY OF SEATTLE, according to the plat recorded in Volume 7 of Plats, page 51, records of King County, and part of the alleyway therein; part of Block 1 of BRADNER'S ADDITION TO THE CITY OF SEATTLE, according to the plat recorded in Volume 5 of Plats, page 49, records of King County; part of Block 4 of JACKSON AND RAINIER STREET ADDITION TO THE CITY OF SEATTLE, according to the plat recorded in Volume 3 of Plats, page 65, records of King County; part of Bradner Place South; and part of South Irving Street; all more particularly described as:

BEGINNING AT A POINT opposite Highway Engineer's Station (hereinafter referred to as HES) EMPIRE 24+14.53 on the Rel. Empire Way S. Line Survey of SR90, Jct. SR5 to W. Shore Mercer Island Sec. 1, Jct. SR5 to Bradner Place S., and 40 feet Northeasterly therefrom;

Thence Easterly to a point opposite HES EMPIRE 24+02.09 on said Rel. Empire Way S. Line Survey and 113.44 feet Northeasterly therefrom;

Thence Southerly to a point opposite HES EMPIRE 23+37.85 on said Rel. Empire Way S. Line Survey and 103.59 feet Northeasterly therefrom;

Thence Southeasterly to a point opposite HES EMPIRE 22+53.79 on said Rel. Empire Way S. Line Survey and 141.22 feet Northeasterly therefrom;

Thence Easterly to a point opposite HES LL 84+77.13 on the LL Line Survey of said Highway and 402.59 feet Northerly therefrom;

Thence Southerly to a point opposite HES LL 84+77.46 on said LL Line Survey and 268.50 feet Northerly therefrom;

Thence Easterly to a point opposite HES LL 86+13.22 on the LL Line Survey of SR90, Jct. SR5 to W. Shore Mercer Island Sec. 2, Bradner Place S. to W. Shore Mercer Island, and 267.77 feet Northerly therefrom;

Thence Southerly to a point opposite HES LL 86+12.34 on said LL Line Survey and 102.80 feet Northerly therefrom;

Thence Westerly to a point opposite HES LL 81+99.69 on the LL Line Survey of said SR90, Jct. SR5 to W. Shore Mercer Island Sec. 1, Bradner Place S. to W. Shore Mercer Island, and 96.05 feet Northerly therefrom;

Thence Northerly to a point opposite HES EMPIRE 20+24.10 on said Rel. Empire Way S. Line Survey and 40 feet Easterly therefrom;

Thence Northwesterly parallel with said Rel. Empire Way S. Line Survey to the POINT OF BEGINNING.

The lands being herein conveyed contain an area of 120,547 square feet, more or less, the specific details concerning all of which may be found on Sheet 8 of 15 Sheets of that certain right of way plan entitled SR90, Jct. W. Shore Mercer Island Sec. 1, Jct. SR5 to Bradner Place S., and on Sheet 2 of 9 Sheets of that certain right of way plan entitled SR90, Jct. SR5 to W. Shore Mercer Island Sec. 2, Bradner Place S. to W. Shore Mercer Island, now of record and on file in the Office of the Secretary of Transportation at Olympia, Washington, bearing dates of approval February 29, 1980 and July 6, 1979 respectively.

[EXCEPT any portion of the alley in said Block 1, Bradner's Addition.]

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## EXHIBIT B

### LEGAL DESCRIPTION FOR PARCEL 37A

That certain real property, situate in the County of King, State of Washington, described as follows:

That portion of Lots 10 through 14, inclusive, Bemis Addition to the City of Seattle, according to the plat thereof recorded in Volume 7 of Plats, page 51, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9; EXCEPT that portion lying easterly of a line established by Warranty Deed recorded under Recording Number 8407100042; and

That portion of Lots 23 through 34, inclusive, Bemis Addition to the City of Seattle, according to the plat thereof recorded in Volume 7 of Plats, page 51, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9; and

That portion of Lots 11 through 22, inclusive, Block 1, Bradner's Addition to the City of Seattle, according to the plat thereof recorded in Volume 5 of Plats, page 49, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9;

RESERVING to Grantor the underlying fee interest in that portion of Bradner Place South lying southerly of the north line, as extended westerly, of Block 4, Jackson and Rainier Street Addition, as recorded in Volume 3 of Plats, page 65, Records of King County Washington.

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## EXHIBIT C

### CONTRACT FOR SALE OF LAND

This Agreement, made on or as of the \_\_\_\_ day of \_\_\_\_\_, 1996, by and between The City of Seattle, a municipal corporation of the State of Washington, (hereinafter called "City") and HomeSight, a Washington not-for-profit corporation (hereinafter called "Purchaser"), whose address is 3405 South Alaska Street, Seattle, Washington 98118,

#### WITNESSETH:

WHEREAS, the City Council, by Resolution 27901 dated August 28, 1989, amended December 11, 1995, by Resolution 29258, has recognized the I-90 Area Development Policies ("I-90 Policies") as the basic City policy governing the sale and development of publicly-owned land in the I-90 Corridor; and

WHEREAS, the City's goal as stated in Resolution 27901 is to encourage the replacement of lost housing and commercial development on such surplus property through a planned program of new housing and commercial construction; and

WHEREAS, certain land owned by WSDOT, located in the County of King, State of Washington, identified as Parcel 37 in the I-90 Area Development Policies and more particularly described on Attachment A attached hereto, is proposed, in connection with the above noted agreement, to be conveyed to the City of Seattle in partial compensation for park lands taken for the construction of I-90; and

WHEREAS, Parcel 37 is designated in the I-90 Area Development Policies as a site for development of housing; and

WHEREAS, HomeSight is a nonprofit community development corporation engaged in development of affordable housing for home ownership in the Central Area and Southeast Seattle and has received a grant from the federal government for such purpose under the Nehemiah Housing Opportunity Program; and

WHEREAS, by Resolution 28498 the City Council authorized a Memorandum of Understanding with HomeSight by which HomeSight would acquire property from the City to develop approximately 142 units of affordable housing for first-time homebuyers in accordance with federal regulations under the Nehemiah programs, 24 CFR Part 280; and

WHEREAS, HomeSight has, with the cooperation of the Seattle Department of Housing and Human Services ("DHHS"), conducted a Request for Qualifications process by which it has identified developers qualified to create housing on I-90 parcels to be purchased by HomeSight;

Now, Therefore, the parties hereto, for and in consideration of the promises and mutual obligations herein undertaken, do hereby agree as follows:

#### PART I

##### Section 1. Agreement to Convey Parcel

Subject to all of the terms and conditions of this Agreement, the City agrees to convey to Purchaser that certain real property located at South Judkins Street and Martin Luther King Jr. Way South in the City of Seattle more particularly described in Attachment A attached hereto and incorporated herein by reference, which real property is hereinafter referred to as "the Parcel" (which term shall include, except as expressly set forth on Attachment A, any interest in adjacent streets or alleys that is appurtenant to the Parcel or any portion thereof, and any interest in such adjacent streets or alleys that shall vest in the owner of the Parcel upon the vacation thereof)

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Section 2. Payment of Purchase Price.

Purchaser agrees to pay to the City the sum of **SEVENTY THOUSAND AND NO/100 DOLLARS** (\$70,000.00), payable at the time of closing.

Section 3. Conveyance

Upon the payment of the sum provided in Section 2 and all other amounts required to be paid by Purchaser hereunder, and upon the satisfaction of the conditions set forth in Section 5 below, the City shall convey title to the Parcel by Special Warranty Deed in the form attached hereto as Attachment B. Within ten (10) business days of the City's receipt of the executed deed to the Parcel from WSDOT the City shall provide Purchaser with a final form of the Deed for approval, which Deed may reflect such modifications of the legal description and/or such additional easements, reservations or restrictions as may be contained in the WSDOT deed to the City. Approval of the form of Deed by Purchaser shall constitute Purchaser's acceptance of all easements, reservations and restrictions stated therein. If Purchaser does not approve such form of Deed within ten (10) days after delivery to Purchaser, then either party shall have the right to terminate this Agreement and Purchaser, as its sole remedy, shall have the right to terminate this Contract and receive a refund of the Earnest Money Deposit.

Section 4. Condition of Title; Title Insurance

Purchaser may obtain an owner's policy of title insurance in standard form, at the Purchaser's expense. Purchaser has obtained and reviewed a preliminary title commitment ("Title Commitment") from Stewart Title Company of Washington, Inc., Order no. 287091, dated February 15, 1996, as supplemented through supplement no. \_\_\_\_\_ dated \_\_\_\_\_, and has provided a copy to the City. Any liens, encumbrances or defects (collectively "exceptions") shown thereon are hereby approved and accepted by Purchaser. If title is not insurable at Closing free and clear of any exceptions other than those accepted by Purchaser (including any accepted by Purchaser's approval of the form of Deed under Section 3), then Purchaser, as its sole remedy, shall have the right to terminate this Contract and receive a refund of the Earnest Money Deposit.

Section 5. Conditions Precedent

The following shall be conditions precedent to the City's obligation to convey the Parcel:

- (a) Conveyance of the Parcel from the State of Washington, Department of Transportation, to the City shall have been completed;
- (b) Schematic Plans of the Purchaser's project to be developed on the Parcel ("Project") shall have been reviewed and approved by the Director of Housing and Human Services ("Director"), as provided in Section 302 of Part II of this Agreement;
- (c) Purchaser shall provide evidence satisfactory to the City that Purchaser has the necessary financing for project development as provided in Section 305;
- (d) Purchaser shall have deposited with Stewart Title Company of Washington, Inc. (the "Escrow Agent") for delivery to the City the sum of money required to pay the purchase price stated under Section 2 of this Agreement and all other amounts payable by Purchaser hereunder, in cash or cashier's check; and
- (e) Purchaser shall otherwise be in compliance with all of the terms hereof.

The conditions in this Section are for the sole benefit of the City and, except for subsections (a) and (d) above, may be waived by the Director in order to permit an early closing if so requested

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by Purchaser, in the Director's sole discretion, and on such terms and conditions as the Director may require.

Section 6. Earnest Money

Purchaser shall deposit with the City earnest money in the amount of five percent (5%) of the purchase price ("Earnest Money") immediately upon execution of this Agreement. Cash Earnest Money shall be held in the City Finance Department's Clearing Account until such time as the Purchaser becomes entitled to return of such Earnest Money under the terms hereof, or until the City becomes entitled to retain such Earnest Money under the provisions of this agreement. Purchaser shall not be entitled to interest on Earnest Money. Cash Earnest Money will be credited to the purchase price at closing. The City will accept a promissory note, payable on terms acceptable to the City, in lieu of cash Earnest Money. Any such note shall be due and payable in full upon any termination of this Agreement upon which the City has the right to retain the Earnest Money hereunder.

Section 7. Closing; Security Deposit for Completion of Improvements

A. Closing shall take place on such date as the Purchaser shall specify by notice to the City at least ten (10) days in advance of the closing date, which notice may be given at any time within thirty (30) days after all conditions herein, other than deposit of funds and instructions in escrow, have been satisfied, but in any event closing shall occur no later than March 1, 1997. "Closing" shall mean the execution, delivery and recording (as appropriate) of all documents and payment of all funds into escrow as provided herein.

B. At Closing, the Escrow Agent shall be instructed to record the Deed and to instruct in turn the King County Office of Records and Elections (County Recorder) to mail the original of the Deed following recording, to the Purchaser as grantee. The escrow fee charged in connection with this closing, shall be paid by the Purchaser. Purchaser shall pay the cost of recording the Deed and any documents required by Purchaser's financing. Each party shall sign and deliver such escrow instructions and other documents as are reasonably necessary to effect Closing as contemplated herein.

C. Purchaser shall also pay to the City at time of Closing a cash deposit of five percent (5%) of the purchase price ("Deposit") as security for completion of the improvements on the Parcel as approved by the City, to be released upon receipt by Purchaser of a Certificate of Completion from the City for the entire Parcel. This Deposit shall be held in the City Department of Finance Clearing Account until such time as the Purchaser becomes entitled to return of such deposit under the terms hereof, or until the City becomes entitled to retain such deposit under the provisions of this agreement. At the Purchaser's option a performance bond in an amount of 10% of the purchase price, in form satisfactory to the City, conditioned to be paid to the City in full if a Certificate of Completion is not issued for the entire Parcel prior to the deadline for completion of the Improvements hereunder, may be submitted in lieu of the Deposit at the time the Deed is recorded. Purchaser shall not be entitled to interest on the Deposit. Each party shall sign and deliver such escrow instructions and other documents as are reasonably necessary to effect Closing as contemplated herein.

D. If the sale fails to close due to fault of one of the parties, as described in Sections 702 and 703 of Part II of this agreement, then such party shall be solely responsible for all escrow and title insurance cancellation charges. If the sale fails to close by the date set forth in subsection A. above for reasons other than those set forth in Sections 702 or 703, then the Earnest Money shall be returned to Purchaser less one half of any escrow or title insurance cancellation charges and the City shall pay such charges one-half from the Earnest Money and one-half from the City's own funds; provided that if the sale does not close due to the City's failure to clear defects in title objected to by Purchaser as permitted by Section 4 hereof, the City shall return the full Earnest Money and pay all cancellation charges from its own funds.

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PART "

ACCEPTANCE, CONDITION AND POSSESSION OF PARCEL

Section 101. Acceptance AS IS

Purchaser has inspected the Parcel and agrees to accept the Parcel "AS IS" with NO WARRANTY OR REPRESENTATION BY THE CITY EXCEPT AS EXPRESSLY SET FORTH HEREIN. Purchaser further acknowledges and agrees to terms of the Disclaimer of Warranties and Release, attached hereto as Attachment F.

Section 102. Changes in Condition

A. If Purchaser or DHHS becomes aware of any change in the physical condition of the Parcel after the date hereof that would materially impair the development thereof as contemplated hereunder, or would substantially increase the cost of such development, such party shall promptly notify the other party of such change. If any such change is caused by the acts of Purchaser or its agents, employees or contractors the Purchaser shall restore the Parcel to its prior condition. If Purchaser is not responsible under the preceding sentence then (1) if the City gives notice to Purchaser within ten (10) days after receiving notice of such change in condition that the City elects to remedy such changed condition, then this Agreement shall remain in effect and the City shall remedy such changed condition prior to closing, and (2) if the City does not give notice of such election, then Purchaser shall have the option, by notice to the City no later than twenty (20) days after giving notice to, or receiving notice of, such changed condition (as the case may be), to cancel this Agreement and receive a full refund of all Earnest Money, in which case neither party shall have any further obligation or liability to the other hereunder. Any notice from Purchaser to City hereunder that Purchaser is prepared to close the purchase shall constitute Purchaser's representation that it has reinspected the Parcel and agrees to accept it in its condition on the date of such notice, whether or not such condition has changed from the date hereof.

B. In the event any portion of the Parcel shall be taken, damaged or condemned for public or quasi-public use, except as stated in the following sentence, all compensation awarded upon such condemnation, damaging or taking up to the amount of the unpaid purchase price shall be retained by the City and applied to the purchase price, and any balance shall inure to Purchaser and the City shall have no claim thereto. In the event of taking, damage or condemnation by a public or quasi-public body of a portion of the Parcel making it infeasible for Purchaser to complete the development of the Improvements, Purchaser shall have the right to terminate this Agreement by written notice to the City within ten (10) days after the effective date of such taking, damage or condemnation, and if closing has not yet occurred then all compensation shall be retained by the City and the Earnest Money shall be refunded.

Section 103. Possession

Purchaser shall be entitled to exclusive possession of the Parcel (subject to the rights of the City contained herein) upon recording of the Deed.

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## DEVELOPMENT OF PARCEL

### Section 201. Intent to Develop; Purpose of Development.

Purchaser represents and agrees that the purchase of the Parcel is for the purpose of immediate development of dwellings primarily for first-time home buyers (which term shall mean, for purposes of this Agreement, home buyers eligible under the federal Nehemiah program) and not for speculation in land holding. The parties acknowledge that Purchaser's covenants to construct Improvements in accordance with the terms and conditions contained herein are material to the City's agreement to convey the Parcel.

### Section 202. Improvements.

Purchaser agrees to develop the Parcel with approximately 28 housing units, as generally set forth in Attachment C to this Agreement, which is incorporated herein by this reference. The parties agree that Attachment C is a conceptual plan only, and is subject to revision with the approval of the Director, provided that the total number of units does not increase or decrease by more than five (5) units, and that the development as a whole is predominantly single family in character. The improvements to be constructed on the Parcel as generally described in Attachment C, which shall be more specifically described in the plans to be submitted by Purchaser hereunder, are referred to as the "Improvements."

### Section 203. Development Agreement

Within sixty (60) days following closing, Purchaser shall enter into a development agreement for the development of the Improvements ("Development Agreement") with Icon/Pentron ("Developer"), based substantially upon the form of agreement contained in the Request for Qualifications dated March 1, 1993 ("RFQ"). All time periods and deadlines in the Development Agreement shall be consistent with the terms hereof. The Development Agreement shall remain in full force and effect, and there shall be no substitution for the Developer or for any principal members of the original development team without the express written consent of the City. Purchaser shall provide to City promptly upon the execution thereof a copy of the Development Agreement and any amendment or modification to the Development Agreement. No deviation from the form of Development Agreement contained in the RFQ, nor any amendment to any Development Agreement, that could reasonably impair the ability of the Purchaser to satisfy the conditions hereof or to comply with the terms hereof shall be entered into without the express written consent of the City.

### Section 204. Vacation and Rededication of South Irving Street

The parties contemplate that Purchaser will pursue a petition previously filed by the State of Washington to vacate South Irving Street as currently platted and dedicate a new South Irving Street right-of-way substantially as shown on Attachment C. The Director of the Department of Housing and Human Services ("Director") or her designee shall provide such cooperation as may be reasonably necessary for Purchaser to pursue such street vacation and obtain a dedication at Purchaser's expense, consistent with this Agreement and applicable law. Purchaser acknowledges that this Agreement does not guarantee that necessary approvals will be granted for any street vacation or engineering approvals that Purchaser may deem necessary or desirable in the development of the Parcel, and that any and all decisions by the City on such matters will be made independent of this Agreement. It is Purchaser's sole obligation to develop and submit in a timely manner such petitions, applications and supporting materials as shall be necessary to obtain all approvals required in connection with any proposed changes to platted rights-of-way. If the application to vacate South Irving Street should be denied, or granted only upon conditions that Purchaser cannot satisfy consistent with this Agreement, then it shall be Purchaser's obligation to submit alternative plans for the development of the Property without such vacation, consistent with this Agreement.

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Section 205. Subdivision

The parties contemplate that Purchaser will reconfigure the Lots on the Parcel for the purpose of development and subsequent resale, by one or more full subdivisions, short subdivisions, lot boundary adjustments, and/or condominium declarations. Any lots created by any such method, any portions of the Parcel now or hereafter constituting separate lots under the City's Land Use Code, and any condominium units that may be created from the Parcel or any portion thereof, are all referred to herein as "Lots." The Director of the Department of Housing and Human Services ("Director") or her designee shall provide such cooperation as may be reasonably necessary for Purchaser to complete such reconfiguration of lots at Purchaser's expense, consistent with this Agreement and applicable law. Purchaser acknowledges that this Agreement does not guarantee that necessary approvals will be granted for any subdivision, short subdivision or lot boundary adjustment application, or that the appropriate authorities will issue any permits or land use approvals that Purchaser may deem necessary or desirable in the development of the Parcel, and that any and all decisions by the City on such matters will be made independent of this Agreement. It is Purchaser's sole obligation to develop and submit in a timely manner such applications and supporting materials as shall be necessary to obtain all approvals and permits required in connection with any division of the Parcel into Lots.

Section 206. Timing of Improvements; Phasing

Purchaser proposes to complete the Improvements in two phases. Purchaser shall make every effort to complete the Improvements within a time frame necessary to qualify for down payment assistance to eligible buyers under the Nehemiah program, 24 CFR Part 280. If the pending street vacation petition is granted, then (a) Phase I shall include street and utility improvements, development of approximately thirteen homes north of relocated South Irving Street, and all development and site restoration activities on adjacent lands under jurisdiction of the Washington State Department of Transportation ("WSDOT") and/or the City of Seattle Department of Parks and Recreation or Department of Engineering, as required pursuant to Section 301 and Attachment D; and (b) Phase II shall include approximately 15 homes south of relocated South Irving Street and any public improvements affecting only Phase II homes. Purchaser agrees that the Improvements to be constructed in Phase I in accordance with this Agreement shall be completed no later than three (3) years from the date of execution hereof or two (2) years from the date of closing, whichever comes first. All remaining Improvements to be constructed in accordance with this Agreement shall be completed within five (5) years from the date of execution of this Agreement. If the street vacation petition is denied, then within \_\_\_\_\_ days thereafter Purchaser shall propose an alternative site plan not requiring vacation of South Irving Street, and complying with the provisions of Attachment D and providing for the development of no fewer than 23 nor more than 33 homes, and if such site plan is approved by the Director it shall replace Attachment C. If such alternate site plan is not disapproved by the Director, then Purchaser shall have thirty (30) days to submit an acceptable alternate site plan, but if no alternate site plan acceptable to the Director is submitted within such thirty (30) days, then either party may terminate this Agreement, upon which Earnest Money will be refunded. If the street vacation application is denied, the number of homes in Phase I is subject to change with the approval of the Director, and the deadline for completion of Phase I shall be extended for one year beyond the deadline as set forth above, but the deadline for completion of the remaining homes shall remain at five (5) years from the execution of this Agreement.

PLANS, APPROVALS, FINANCING AND CONSTRUCTION

Section 301. Design and Construction Coordination re I-90 Lid Park; Improvements on Perimeter of Parcel

Purchaser agrees to comply with guidelines prepared by the Seattle Department of Parks and Recreation ("DOPAR"), substantially in the form attached hereto as Attachment D ("Guidelines"). Without limiting the foregoing, Purchaser shall at Purchaser's sole expense: (a) obtain necessary permission and approvals from WSDOT and the Seattle Department of Parks

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and Recreation or Engineering Department, as appropriate, and install the fencing, landscaping and other improvements around the south and east perimeter of the portion of the Parcel identified as "Parcel C" in Attachment B hereto, as described in the Guidelines; (b) coordinate the project design and construction with the design and improvements of the adjacent I-90 Lid Park; (c) include provisions in the Development Agreement for the Parcel to assure compliance with the guidelines by the Developer and any contractors or subcontractors engaged by the Developer for work upon or related to the Parcel; (d) remove and reinstall outside the perimeter of the Parcel, as approved by WSDOT, that portion of the concrete mowing strip located thereon and a concrete pad encroaching upon the Parcel; (e) cap irrigation pipes where the same now cross any part of the Parcel and re-route them outside the perimeter of the Parcel in such manner as shall be approved by DOPAR; and (f) obtain necessary permits and relocate outside of the Parcel catch basins and drainage lines that serve portions of WSDOT and/or City Park property, except where easements for existing facilities shall have been reserved in the final Deed to Purchaser. The work required under clause (f) above shall include constructing a new catch basin and storm drain line east of the portion of the Parcel identified as "Parcel C" in Attachment B hereto, in such manner as shall be approved by DOPAR. All fencing and all other improvements installed on public property shall become the property of the State or the City, depending upon ownership of such property, upon the acceptance thereof by DOPAR or WSDOT, as appropriate. Purchaser shall comply with all applicable laws, ordinances and permits in the installation of improvements on public property. If any such improvements are rejected by DOPAR or WSDOT, Purchaser shall modify or remove them as required by DOPAR or WSDOT. Any reviews or approvals required by the Guidelines shall be in addition to the reviews and approvals required by laws, permits and by Sections 302 through 304 below.

Purchaser acknowledges that there is a City Water Department blow-off pipe located on the westernmost lot in the portion of the Parcel identified as "Parcel C" in Attachment B hereto. Purchaser agrees to relocate such blow-off pipe in the public right of way and perform all necessary related work, at Purchaser's expense and in such manner as is approved by the City, prior to any development or sale of the lot where such pipe is located, and not to disturb or obstruct such blow-off pipe pending such relocation.

#### Section 302. Design and Schematic Plans

Prior to conveyance of the Parcel, the Purchaser shall submit to City schematic designs and plans (herein "Schematic Plans") in sufficient detail with respect to development of all of the Parcel to clearly describe the site plan, architectural character, circulation, landscaping features and relationship to the surrounding environment of the Improvements.

The Schematic Plans shall be in conformity with Section 202 and all applicable state and local laws and regulations, and shall be consistent with the design guidelines contained in the RFQ. The Schematic Plans shall be submitted within thirty (30) days of execution of this Agreement. If Schematic Plans conforming to this Agreement are not submitted within such period, the City shall have the right, by notice to Purchaser, to terminate this Agreement in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy, provided, that if the Director of DHHS shall have waived the requirement for Schematic Plans as a condition to closing, then upon failure of Purchaser timely to comply with the terms of this Section, City shall have the remedies stated in Section 704 below.

The Schematic Plans shall be subject to review and approval by the Director of the Department of Housing and Human Services ("Director") as to conformity with this Agreement. The Director shall complete the Schematic Plans review within fifteen (15) days of receipt of the Schematic Plans. If within such period, the City gives notice to Purchaser of changes reasonably required by the City, the Purchaser shall submit revised Schematic Plans reflecting such changes within fifteen (15) days after receipt of such notice. If the City does not give notice of any required changes within such period, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with Attachment C or the Design Guidelines in the RFQ.

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Unless otherwise expressly stated in writing by the Director, any approval or deemed approval of Schematic Plans is conditioned upon the Purchaser complying fully with the requirements of Section 301 above. If Purchaser does not receive necessary permission for any portion of the work to be performed outside the boundaries of the Parcel pursuant to Section 301, then, notwithstanding any such approval of Schematic Plans by the Director, Purchaser shall promptly revise the Schematic Plans to provide for installation of equivalent improvements within such boundaries to create the intended buffer between the Parcel and adjacent public property.

#### Section 303. Construction Plans and Specifications

Purchaser shall prepare plans and specifications with respect to the construction of Improvements ("Construction Plans") in conformity with the previously approved Schematic Plans, this Agreement and all applicable state and local laws and regulations. The Construction Plans shall be in sufficient completeness and detail not only to satisfy requirements pertinent to application for a building permit but also to demonstrate to the Director that the improvements and their construction will be in accordance with the previously approved Schematic Plans. Purchaser shall submit the Construction Plans, together with construction or progress schedule, to the Director, prior to the submission of the Construction Plans to the Department of Construction and Land Use ("DCLU").

Unless Purchaser is using Construction Plans previously approved by the Director, Purchaser shall submit Construction Plans to the Director within thirty (30) days of the City's approval of Schematic Plans and in any event within sixty (60) days of execution of this Agreement. If Construction Plans conforming to this Agreement are not submitted within such period, the City shall have the right, by notice to Purchaser and Escrow Agent, to terminate this Agreement, in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy. If the City does not give notice of any required changes in Construction Plans within fifteen (15) days of receipt thereof, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the Schematic Plans. Final approval of the Construction Plans will be subject to acceptance by DCLU as evidenced by the issuance of the necessary permits for development and construction of the Project.

If Purchaser elects to use Construction Plans previously approved by the Director, approval by the Director of Schematic Plans shall constitute acceptance by the Director of the previously approved plans for development on the Parcel, and further review and approval of Construction Plans by the Director shall not be required. Any modifications in Construction Plans necessary to adapt to specific site conditions shall be considered changes in Construction Plans and shall be subject to review and approval as provided in Section 304.

#### Section 304. Changes in Construction Plans or Schematic Plans

If Purchaser desires to make any material changes in the size, character, design, or exterior surface of structures or in the site plan, exterior elevation or materials or any of them as set forth in the Construction Plans and Schematic Plans or either of them after approval by the City, the Purchaser shall submit the proposed change to the Director for her approval. If the Director finds that the Construction Plans and/or Schematic Plans as modified by the proposed change conform to the requirements of Section 302 and 303 hereof, the Director shall approve the proposed change evidencing such approval by her endorsement of the same on the revised plan sheets and by notifying the Purchaser and the DCLU Director in writing of her approval. Such changes in the Construction Plans and Schematic Plans or either of them shall in any event be approved or rejected in whole or in part, by written notice from the City to the Purchaser within fifteen (15) days of submittal by the Purchaser. If the City does not give notice of any required changes in Schematic Plans or Construction Plans within fifteen (15) days of receipt thereof, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit

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for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the requirements for such plans hereunder.

#### Section 305. Evidence for Financing

Purchaser represents that Purchaser has a preliminary commitment from Washington Mutual Bank ("Bank") for financing the acquisition and construction of the housing contemplated by this Agreement. Purchaser shall, within \_\_\_ days after the date hereof, apply to Bank for the financing commitment on the Parcel, and shall diligently seek to obtain a firm loan commitment in an amount necessary to fund the purchase and the construction of the first thirteen (13) homes contemplated hereby, with provision for further financing of the remaining homes as the earlier homes are completed. As a condition to City's obligations hereunder, Purchaser shall provide the City, within sixty (60) days of execution of this agreement, a firm financing commitment from the Bank or other financial institution satisfactory to the City. If Purchaser fails to submit a satisfactory commitment by such date, then the City may, by notice to Purchaser, terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and neither party shall have any liability hereunder, provided, that if the Director of DHHS shall have waived the requirement of a financing commitment as a condition to closing and the sale shall have closed prior to Purchaser's failure timely to submit a financing commitment satisfactory to the City, then the City shall have the remedies set forth in Section 704 below. If the City does not give notice to Purchaser within fifteen (15) days after receipt of a copy of the financing commitment that any terms thereof are not acceptable to City, then City shall be deemed to have approved the terms thereof except to the extent that any such terms are contrary to the provisions hereof.

#### Section 306. Inspection

Development work in progress shall at all times be subject to inspection by the City.

#### Section 307. Report on Progress

Subsequent to the conveyance of the Parcel to the Purchaser and until construction of the Improvements is complete, the Purchaser shall, within ten (10) days of any request by the City, forward to the Director a report in writing as to the actual construction progress.

#### Section 308. Purpose of Review of Plans and Inspection of Work

Review by DHHS of plans and specifications and inspection by DHHS of construction improvements is for the sole purpose of conformity with the terms of this Agreement. Such inspection shall not be construed as a representation or warranty to Purchaser or any third party that the plans and specifications are adequate for any purpose, that there has been or will be compliance on the part of any contractor or subcontractor with the plans and specifications, that construction has been or will be free from faulty material or workmanship, or as to any other matter. Purchaser shall cause this Section 308 to be included in any contract for work into which Purchaser shall enter under this Agreement.

#### Section 309. Certificate of Completion of Improvements

Promptly after completion of the Improvements in accordance with the provisions of this Agreement and the approved Construction Plans, as confirmed by inspection by DHHS, the Director shall furnish the Purchaser with a certificate of completion ("Certificate" herein) substantially in the form attached hereto as Attachment E. The Certificate shall be issued when the Purchaser has completed the Improvements pursuant to the Construction Plans and has cured any deficiencies noted by the City in its inspections. Delivery of the Certificate by the Director and recording thereof by the Purchaser shall be conclusive evidence of satisfaction of obligations of the Purchaser to construct the Improvements and of the termination of the condition subsequent in the Deed to Purchaser. Upon delivery of the Certificate, unless the City has already exercised its right to retain the Deposit for a breach or default on the part of Purchaser, the Deposit shall be returned to Purchaser.

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At the request of Purchaser, the Director may furnish a partial certificate with respect to an individual Lot or group of Lots on the Parcel upon which all Improvements have been completed in accordance with approved Construction Plans, PROVIDED that DHHS shall not be required to furnish a partial certificate for less than an entire condominium.

If the Director shall refuse or fail to provide the Certificate in accordance with the provisions of this Section 309, the Director shall, within seven (7) days after written request by the Purchaser made prior to the last date for completion of the Improvements hereunder, provide the Purchaser with a written statement indicating in adequate detail in what respects the Purchaser has failed to complete the Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Director, for the Purchaser to take or to cause to be taken to obtain such Certificate. When such acts or measures have been completed and the City has reinspected the Parcel to confirm such completion the Certificate shall be issued.

Notwithstanding the foregoing provisions of this Section, Purchaser shall not be entitled to a Certificate of Completion for the Parcel or for any Lot until all requirements of Section 301 have been satisfied and DOPAR has issued its written acceptance of the work described in the Guidelines referred to in Section 301.

### SPECIAL CONDITIONS

#### Section 401. WMBE and Local Business Enterprise Participation

Because this contract does not involve a public work or consultant services to the City, the minimum set-aside provisions of SMC § 20.46A with respect to women- and minority-owned business enterprises do not apply. Nonetheless, in connection with the construction of the Improvements, Purchaser shall:

- (1) Continue to make every effort to utilize women's business enterprises, minority business enterprises, and local business enterprises;
- (2) Require subcontractor(s) to make every effort to utilize women's business enterprises, minority business enterprises, and local business enterprises;
- (3) Maintain records reasonably necessary for monitoring participation levels of women's business enterprises, minority business enterprises, and local business enterprises.

#### Section 402. Sale of Improvements; Benefit to Low-Income Households

Purchaser represents and agrees that Purchaser will offer the homes constructed on the Parcel for sale after completion of the Improvements to households with incomes generally between 50% and 115% of PMSA median income, in accordance with federal regulations under the Nehemiah program, 24 CFR Part 280, who confirm in writing their intent to occupy such home as their principal residence. Purchaser shall use every effort to make the majority of homes developed on the Parcel affordable to low- and moderate-income households, defined as households with incomes at or below 80% of PMSA median income, as established and adjusted for household size by the U.S. Department of Housing and Urban Development. If funding under the Nehemiah program is not available for some or all of the homes, then Purchaser shall diligently seek funding for home buyers from available federal, state, local and private programs to subsidize buyers with limited incomes and shall sell the homes not funded through the Nehemiah program to households qualifying under the program or programs from which funding shall be obtained, all subject to the approval of the City. If no subsidy is obtained with respect to one or more of the homes, Purchaser shall nevertheless sell such home or homes exclusively to first-time home buyers not exceeding Nehemiah income limits for a period no less than 120 days

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following issuance of a Certificate of Occupancy before agreeing to sell the home or homes to other buyers, PROVIDED that the City may waive this limitation if Purchaser has sold or presold at least 15 homes to low or moderate-income households and at least six additional homes to first-time home buyers with household incomes at or below 115% of median.

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## PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

### Section 501. Prohibition Against Transfer of Parcel and Assignment of Agreement

Purchaser represents and agrees that:

A. Purchaser has not made or created or suffered to be made or created any assignment, conveyance, mortgage, lease, trust, power or transfer, of any sort, of this agreement or any interest herein, or any interest in or relating to the Parcel, or entered into any agreement or contract to do any of the foregoing and (except as authorized by Sections 601-605 herein) Purchaser shall not do any of the foregoing prior to issuance of a Certificate of Completion of the Improvements without the prior written approval of the City, which may be withheld in the City's sole discretion.

B. In order to request City approval for any transaction of the type referenced in Subsection A above, Purchaser shall submit to the City all documents relating to the proposed transactions and such information concerning the proposed transferee as the City shall request. If the City approves the transaction, as a condition of such approval, the transferee shall assume all obligations of Purchaser hereunder and shall agree to comply with such other conditions the City may find desirable in order to achieve and safeguard the purposes of this Agreement. This Subsection B shall not apply to mortgages or deeds of trust as authorized in Section 601 below.

C. In the absence of specific written agreement by the City to the contrary, no transfer or approval thereof by the City shall be deemed to relieve Purchaser, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

## MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

### Section 601. Limitation Upon Encumbrance of Parcel

Prior to the issuance of a Certificate of Completion for the Improvements, the Purchaser shall not engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Parcel without the express written consent of the City. The Purchaser shall notify the City in advance of any financing secured by mortgage or other similar lien instrument, that Purchaser proposes to enter into with respect to the Parcel, or any part thereof, and in any event Purchaser shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Parcel, whether by voluntary act of the Purchaser or otherwise. If the terms of the proposed mortgage financing are reasonably satisfactory to the City, the City shall, at or after Closing hereunder, join in the execution of the mortgage or deed of trust for the sole purpose of subordinating the City's possibility of reverter (as described below) to the lien of such instrument, but with any liability of the City or its officers expressly disclaimed.

### Section 602. Mortgagee Not Obligated to Construct

Notwithstanding any of the provisions of this Agreement, the holder of any mortgage authorized by this Agreement (including any such holder who obtains title to the Parcel or any part thereof as a result of foreclosure proceedings, or action in lieu thereof) shall in no case be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the Deed be construed to so obligate such holder, provided, that nothing in this Section or any other Section or provision of this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Parcel or any part thereof to any uses, or to construct any improvements thereon, other than improvements consistent with Attachment C to the Agreement or revisions thereto approved by the Director and with the Guidelines set forth in Attachment D.

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Section 603. Copy of Notice of Default to Mortgagee

Whenever the City shall deliver any notice or demand to the Purchaser with respect to any breach or default by the Purchaser in its obligations or covenants under the Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement which holder has been identified to the City in writing by Purchaser, at the last address of such holder shown in the records of the City.

Section 604. Mortgagee's Option To Cure Defaults

After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default and to add the reasonable cost thereof to the mortgage debt and the lien of its mortgage, provided, That if the breach or default is with respect to construction of the Improvements, nothing contained in the Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of improvements on the Parcel (beyond the extent necessary to conserve or protect Improvements or construction already made) except for completion of the Improvements substantially as provided pursuant to this Agreement. In the case of any breach or default occurring after Purchaser shall have acquired the Parcel and shall have granted a mortgage or deed of trust in favor of a construction lender, such lender shall have an additional 30 days to cure such breach or default after the expiration of any cure period allowed to Purchaser, and if the breach or default cannot reasonably be cured within such 30-day period then the additional period of cure allowed to the lender shall be extended for such time as is reasonably required to cure such breach or default, provided that the lender shall give notice of its intent to cure and commence cure within such 30-day period and continue diligently to pursue such cure.

Section 605. Mortgage and Holder

For the purposes of the Agreement: The term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Parcel, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust.

DEFAULT AND REMEDIES

Section 701. In General

Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, or any successor to a party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, shall complete such cure within sixty (60) days after receipt of such notice or such shorter period as may be provided herein. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within the time permitted hereunder, the aggrieved party may pursue any remedies available at law or in equity, subject to the specific limitations herein.

Section 702. Termination By Fault of City Prior to Conveyance of Parcel

In the event that any of the following occurs prior to conveyance of the Parcel:

A. The City fails to tender conveyance of the Parcel in the manner required herein after satisfaction of the conditions provided in this Agreement and notice to close from Purchaser as specified herein, and any such failure shall not be cured within sixty (60) days after notice from the Purchaser; or

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B. The City fails or refuses to approve Purchaser's Schematic Plans or Construction Plans pursuant to the terms of this contract without a statement of reasons for such refusal; or

C. The City otherwise fails or refuses to carry out the terms and conditions of this Agreement prior to Closing;

then at the option of Purchaser this Agreement shall be terminated by written notice thereof to the City, Purchaser shall receive a full refund of the Earnest Money and Purchaser shall have the right, as its sole remedy, to proceed against the City for actual damages limited to an additional amount equal to the Earnest Money.

Section 703. Termination by Fault of Purchaser Prior to Conveyance of Parcel

In the event that prior to the conveyance of the Parcel to Purchaser:

A. Purchaser (or any successor in interest) assigns or attempts to assign this Agreement or any rights therein or in the Parcel without the express consent of the City; or

B. Purchaser does not submit Schematic Plans, or does not submit Construction Plans, as required by this Agreement, or obtain necessary permits to allow construction, or in each case in the manner and by the dates respectively provided in this Agreement, and such failure shall not be cured within sixty (60) days after the date of written demand by the City, which cure period shall be extended for up to two hundred forty (240) days in the case of failure to obtain permits if the Purchaser demonstrates to the satisfaction of the City that it has used all reasonable diligence to obtain such permits and that additional time is required; or

C. Purchaser, without legal excuse, gives notice that it will be unable or unwilling to close the Purchase as provided herein; or

D. Purchaser, without legal excuse, does not tender the full consideration for and take title to the Parcel, and perform all other obligations of Purchaser at Closing upon tender of conveyance by the City pursuant to this Agreement; or

E. Purchaser, without legal excuse, fails to give written notice of intent to close pursuant to Section 7.A of Part I hereof at least ten (10) days in advance of the last date for closing specified in such Section, notwithstanding the satisfaction of all conditions to Purchaser's obligation to close except those to be satisfied at Closing; or

F. Purchaser, without legal excuse, otherwise fails to comply with the terms of this Agreement prior to Closing; or

G. Purchaser shall be in default on another Contract for Sale of Land with the City within the period specified in such Contract, without reasonable cause or without written notice to the City reasonably in advance of the expiration of such period; or there shall be multiple failures by Purchaser to comply in material respects with the terms or conditions of the land sale contracts with the City, if such failures are not promptly corrected to the satisfaction of the City;

then at the option of the City this Agreement and any rights of Purchaser or of any assignee or transferee in this Agreement or arising therefrom with respect to the City or the Parcel shall be terminated, and unless the sole ground for termination is item G. above, the Earnest Money shall be retained by the City as liquidated damages, as the sole and exclusive remedy available to the City, and neither Purchaser (or assignee or transferee) nor the City shall have any further rights against or liability to the other under this Agreement. If the sole ground for termination is item G. above then the Earnest Money under this Agreement shall be returned to Purchaser and neither Purchaser (or assignee or transferee) nor the City shall have any further rights against or liability to the other under this Agreement.

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Section 704. Reversion of Title to City Upon Failure to Complete Improvements or Certain Other Events Subsequent to Conveyance to Purchaser

A. The City is selling the Parcel for the purpose of the immediate construction of housing needed by City residents and in reliance on the representation of Purchaser that such housing will be constructed. Therefore, as set forth in the Deed, the conveyance of the Parcel to Purchaser shall be subject to a condition subsequent to the effect that in the event of failure to complete the Improvements in a timely manner, or failure timely to perform any obligation under Sections 302, 303 or 304 if the Director of DHHS shall have permitted closing to occur prior to Purchaser's performance of such obligation, or upon the occurrence of other events described in the Deed prior to completion of the Improvements, and after failure on the part of Purchaser to cure or remedy such failure or other event within the period (if any) and in the manner stated in the Deed, the City at its option may declare a termination of all the rights and interests in and to the Parcel conveyed by the Deed to Purchaser, and that such title and interests to and in the Parcel shall vest in the City, upon which all rights of Purchaser (and all persons claiming through Purchaser) in and to the Parcel and possession thereof shall cease;

Provided, that such condition subsequent and any reverting of title as a result thereof in the City (1) shall always be subordinate to and limited by, and shall not defeat, render invalid, or limit in any way, (i) the lien of any mortgage or deed of trust authorized by the City pursuant to this Agreement, and (ii) any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust; (2) shall be extinguished and shall not apply to the Parcel once the Improvements to be constructed have been completed in accordance with this Agreement and the Certificate has been issued as provided in Section 309 hereof; and (3) shall be extinguished and shall not apply to the Property if a mortgagee under a mortgage or beneficiary under a deed of trust shall foreclose on the Property and the Property shall be sold in a judicial or nonjudicial foreclosure sale (provided that the mortgage or deed of trust was authorized by the City pursuant to this Agreement).

Further Provided, that the City may not exercise its right of termination with respect to any Lot for which a partial Certificate of Completion has been issued, and any revesting of title in the City shall specifically except such portion or portions of the Parcel.

B. If the City exercises its right to revest title to the City pursuant to this section, the City shall return to Purchaser, without interest, all funds paid by Purchaser to the City for the Parcel, after deducting (1) that portion of the purchase price attributable to any Lot as to which the City's power of termination is not being exercised; (2) any amounts used to pay off liens incurred or permitted by Purchaser; (3) City expenses related to this transaction, including expenses, if any, of restoring the Parcel to safe and marketable condition and/or curing any failure of Purchaser to complete work required by Section 301; and (4) any amount by which the appraised value of the Parcel (or the portion thereof revested in the City) at the time of revesting in the City is exceeded by the price paid by Purchaser (or portion thereof allocable to the portion of the Parcel revested in the City, determined as stated below);

Provided, that Purchaser may submit a claim to the City for recovery of all or a portion of Purchaser's costs of site improvements and improvements to public utilities serving the Parcel if such improvements have resulted in an increase in the appraised value of the Parcel (or the portion thereof revested in the City) at the time of revesting in the City, and the City sells .

The portion of the purchase price for the Property attributable to any Lot for purposes of this Section shall be determined by dividing the area of the Lot by the area of the entire Parcel, unless the parties shall agree to another method.

C. In addition to, and not in the alternative to, the City's power of termination and possibility of reverter as provided for above, the City shall have the right, at any time when the City would have the right to declare a termination of Purchaser's interest under the terms of the Deed, by notice to Purchaser and Escrow Agent, to elect to retain the Deposit, or obtain payment on any

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bond provide in lieu thereof, in either case without any deduction, offset or recoupment whatsoever, as liquidated damages in the event of default, violation or failure of the Purchaser as specified in this section. If the City makes such election to retain the Deposit or realize on the bond, then Purchaser shall have an additional ninety (90) days beyond the deadline otherwise applicable to remedy the failure or event giving rise to the City's right to terminate Purchaser's interest, prior to effectiveness of any termination.

Section 705. Other Rights and Remedies; No Waiver of Delay

Either party shall have the right to institute such actions or proceedings as it may deem desirable for effectuating its remedies. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of any rights or remedies or to deprive it of or limit such rights or remedies in any way; nor shall any waiver in fact made with respect to any specific default be considered or treated as a waiver of the rights or remedies of either party with respect to any other defaults or with respect to the particular default except to the extent specifically waived in writing.

MISCELLANEOUS PROVISIONS

Section 801. City's Representations

The Director has not received notification of any kind from any agency (including without limitation any other City Department or agency) suggesting that the Parcel is or may be targeted for a federal or state Superfund cleanup or may be contaminated with any hazardous waste or materials. The Director has no actual knowledge of a release or threatened release of any hazardous waste or materials on the Parcel.

Section 802. Purchaser's Representations

Purchaser represents and warrants that Purchaser is a duly organized and validly existing nonprofit corporation and has full power and authority to enter into and perform this Agreement and the transactions contemplated hereby; the execution and delivery of this Agreement by the undersigned individual has been duly authorized by all necessary corporate or other action and this Agreement is the valid binding obligation of Purchaser, enforceable in accordance with its terms.

Section 803. Notices.

A notice or communication under this Agreement by either party to the other shall be effective on the earlier of the date actually received by hand delivery or by mail as evidenced by a signed receipt for certified mail, or three days after deposited in the United States mail, postage prepaid, return receipt requested, and

A. In the case of a notice or communication to Purchaser, if the same is addressed to Purchaser at the address stated on the first page of this Agreement; or

B. In the case of a notice or communication to the City, if addressed as follows:

Director, Department of Housing and Human Services  
The City of Seattle  
Sixth Floor, Alaska Building  
618 Second Avenue  
Seattle, WA 98104

or is addressed in such other way in respect to either party as that party may, from time to time, designate in writing delivered as provided in this Section. Any notice required or permitted by any applicable law also shall be effective if given in the manner specifically required or permitted by such law.

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Section 804. Agreement Survives Conveyance

It is the intent of the parties hereto that none of the provisions of this Agreement shall be merged by reason of any deed transferring any interest in any property; and any such deeds shall not be deemed to in any way affect or impair any of the provisions, conditions, covenants, or terms of this Agreement, except as otherwise provided in this Agreement.

Section 805. Titles of Articles and Sections

Any titles of the several parts, Articles or Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 806. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

Section 807. City Approval and Consent

The Mayor and the Director of Housing and Human Services of the City are the sole persons authorized to act for and on behalf of the City in connection with this Agreement except where another is required by law or by this Agreement.

Section 808. Entire Agreement

This Agreement and the Attachments hereto constitute the entire agreement of the parties with respect to the subject matter hereof and supersede any and all prior agreements or understandings.

Section 809. Attorney's Fees

In the event of any litigation, including without limitation bankruptcy, appellate, or arbitration proceedings, between the parties arising out of or in connection with this Agreement, the substantially non-prevailing party shall pay all reasonable costs including but not limited to reasonable attorneys' fees of the substantially prevailing party, including the reasonable value of services of the City's staff attorneys.

Section 810. Cooperation

The parties agree to use their best efforts diligently and promptly to take all actions necessary and appropriate in order to satisfy the conditions set forth in this Agreement and to execute and deliver all other documents reasonably necessary to carry out their respective obligations hereunder, including without limitation reasonable instructions to Escrow Agent.

Section 811. Time

Time is the essence of all provisions of this Agreement.

Section 812. Partial Invalidity

Any provision of this Agreement which shall prove to be invalid, void or unenforceable shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

Section 813. Governing Law

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This Agreement shall be governed by the laws of the State of Washington.

Section 814. Heirs and Successors

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the limitations on transfer stated herein.

Section 815. No Third Party Beneficiaries

The provisions hereof are for the sole benefit of the parties hereto and, subject to the limitations on transfers by Purchaser stated herein, their respective successors and assigns (including mortgagees to the extent provided herein). No other parties shall have any rights or remedies hereunder.

Section 816. Amendments

Amendments to this Agreement may be made only after written approval by the City and by Purchaser. Amendments which are not fairly within the scope of Ordinance \_\_\_\_\_ shall not be effective unless authorized by ordinance.

Section 817. Singular and Plural

In this Agreement the use of the singular shall include the plural, and pronouns of any gender or none shall include the masculine, feminine, and neutral, as the context may require.

EXECUTED as of the day and year first above written.

HOMESIGHT

THE CITY OF SEATTLE

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Venerria L. Knox

Title: \_\_\_\_\_

Director, Department of  
Housing and Human Services

Authorized by Ordinance No. \_\_\_\_\_

ATTACHMENTS:

- A. Legal Description, Parcel 37A
- B. Form of Special Warranty Deed with Covenant and Condition Subsequent
- C. Description of Improvements
- D. Special Guidelines for Coordination of Parcel 37 Development with I-90 Lid Park
- E. Form of Certificate of Completion
- F. Disclaimer of Warranties and Release

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me Venerria L. Knox, to me known to be Director of the Department of Housing and Human Services of the municipal corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath stated that she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said municipal corporation.

WITNESS my hand and official seal the date and year first above written.

Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me \_\_\_\_\_  
\_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the  
\_\_\_\_\_ that executed the within and foregoing instrument and  
acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses  
and purposes therein mentioned, and on oath stated that he was authorized to execute said  
instrument.

In witness whereof I have hereunto set my hand and affixed my official seal the day and  
year first above written.

Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

CSL37r.doc  
March 25, 1996  
gjs/hrt

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Attachment E to Contract for Sale of Land

Recorded at the request of and after recording return to:  
Department of Housing and Human Services  
6th Floor, Alaska Bldg., 618 Second Ave.  
Seattle, WA 98104  
Attn: \_\_\_\_\_

CERTIFICATE OF COMPLETION

KNOW ALL PERSONS BY THESE PRESENTS:

Homesight, a Washington nonprofit corporation ("Purchaser") entered into a Conditional Contract for Sale of Land ("Contract") with The City of Seattle, a Washington municipal corporation ("City"), for the purchase of real property ("Property"), dated \_\_\_\_\_, 199\_\_, and pursuant to such Contract the City conveyed the Property to Purchaser by deed recorded under King County Recording No. \_\_\_\_\_ ("Deed"). The Contract contained requirements for completion of certain Improvements and the Contract and Deed provided for the vesting of title to the City in the event of failure to complete such Improvements.

The Director of Housing and Human Services of the City hereby certifies that the Improvements have been completed in accordance with the Contract[, as to the Lot of the Property identified on Exhibit A attached hereto]. This Certificate is conclusive evidence of the satisfaction of the obligations of Purchaser to construct the Improvements [on that Lot of the Property] and of the termination of all conditions subsequent contained in the Contract and Deed [with respect to that Lot. The obligations of Purchaser as to the remainder of the Property remain in effect unless and until a separate Certificate is recorded evidencing the satisfaction of such obligations].

This Certificate is issued solely for purposes of the Contract and Deed, and shall not be construed as any warranty or representation as to the quality of the Improvements or their compliance with applicable codes or regulations.

Dated this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

THE CITY OF SEATTLE

By \_\_\_\_\_  
Venerria L. Knox, Director  
Department of Housing and Human Services

Authorized by Ordinance No. \_\_\_\_\_

STATE OF WASHINGTON     )  
                                      ) ss  
COUNTY OF KING         )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the Director of Housing and Human Services of The City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written

Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

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8/16/95

Attachment F to Contract for Sale of Land

Disclaimer of Warranties and Release

This Disclaimer and Release is given pursuant to that certain Contract for Sale of Land (the "Agreement") between the undersigned Purchaser and The City of Seattle dated \_\_\_\_\_, 199\_\_, for the sale of the property at \_\_\_\_\_, Seattle, Washington (the "Parcel").

Purchaser has inspected the Parcel and has had the opportunity to obtain inspections and reports of professionals, and Purchaser agrees to accept the Parcel **AS IS, WITH ALL DEFECTS**, and **ASSUMES THE RISK** of any defects in the condition of the Parcel and of all the matters set forth below. City makes **NO WARRANTIES OR REPRESENTATIONS OF ANY KIND** except as may be set forth specifically in the Agreement. Purchaser agrees that any express or implied representations or warranties made by or on behalf of the City prior to the date hereof, unless expressly set forth in the Agreement, are hereby revoked and canceled and shall have no force or effect. Purchaser further agrees that no representations or warranties are implied by any provision of the Agreement or any other words or conduct in connection with this transaction.

Without limiting the generality of the foregoing paragraph, Purchaser agrees that, except as may be specifically set forth in the Agreement, neither City nor any person for whom City may have any responsibility makes any representation, warranty or promise of any kind with regard to any of the following: (1) the physical condition of the Parcel (land, buildings, fixtures, or infrastructure), whether or not readily determined by inspection; (2) the presence or absence of any underground tanks or any hazardous or defective substances or conditions on or about the Parcel, or on adjacent properties; (3) the history of the Parcel or activities that may have occurred or been conducted thereon or thereunder; (4) soils conditions or drainage; (5) square footage of land or buildings; (6) encroachments; or (7) location or condition of utility lines.

Except as otherwise expressly provided in the Agreement, Purchaser hereby irrevocably releases and waives any and all claims that Purchaser has or may have hereafter against City with respect to the condition of the Parcel or arising pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or the Washington State Model Toxics Control Act, as amended.

Purchaser and City acknowledge that this Disclaimer and Release has been specifically bargained for and that City would not be willing to sell the Parcel on the terms and conditions set forth in the Agreement without Purchaser's agreement to this Disclaimer and Release.

Purchaser:

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

The City of Seattle

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_, Department  
of Housing and Human Services

Date: \_\_\_\_\_

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Filed for record at the request of,  
and after recording return to:

HOMESIGHT  
3405 South Alaska Street  
Seattle, Washington, 98118

**SPECIAL WARRANTY DEED WITH RESERVATION OF EASEMENT, NEGATIVE COVENANT AND CONDITION SUBSEQUENT**

The Grantor, THE CITY OF SEATTLE, for and in consideration of ten dollars (\$10.00) and other valuable consideration in hand paid, and the covenants of Grantee contained in that certain Contract for Sale of Land between Grantor and Grantee dated as of \_\_\_\_\_, 1996 ("Contract"), conveys, bargains and sells to Homesight, a Washington not-for-profit corporation ("Grantee"), subject to the reservation, condition subsequent, easement and negative covenant stated below, the following described real estate, situate in the County of King, State of Washington, which real property is hereinafter referred to collectively as "the Property":

PARCEL A:

That portion of Lots 10 through 14, inclusive, Bemis Addition to the City of Seattle, according to the plat thereof recorded in Volume 7 of Plats, page 51, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9; EXCEPT that portion lying easterly of a line established by Warranty Deed recorded under Recording Number 8407100042;

PARCEL B:

That portion of Lots 23 through 34, inclusive, Bemis Addition to the City of Seattle, according to the plat thereof recorded in Volume 7 of Plats, page 51, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9; and

PARCEL C:

That portion of Lots 11 through 22, inclusive, Block 1, Bradner's Addition to the City of Seattle, according to the plat thereof recorded in Volume 5 of Plats, page 49, in King County, Washington, lying easterly of the easterly right of way margin of Martin Luther King Way South, being 40 feet easterly of the centerline as shown on plans by Washington State Department of Transportation entitled "SR 90, MP 0.18 to MP 1.33, Jct. SR 5 to W. Shore Mercer Island, Sec. 1, Jct. SR 5 to Bradner Place S.", dated February 29, 1980, Sheets 8 and 9,

RESERVING to Grantor the underlying fee interest in that portion of Bradner Place South lying southerly of the north line, as extended westerly, of Block 4, Jackson and Rainier Street Addition, as recorded in Volume 3 of Plats, page 65, Records of King County Washington.

AND FURTHER RESERVING to Grantor a permanent easement, binding on the Grantee and its successors and assigns, for a sewer line and appurtenances, including the rights to maintain, repair, inspect, operate, alter, and replace such sewer line and appurtenances, over, under, through, and across the following portion of the Property:

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The South six (6) feet of lots 23 through 34, Bemis Addition to the City of Seattle, according to the plat thereof recorded in Volume 7 of Plats, Page 51, records of King County, Washington ("Easement Area"),

according to the following terms and conditions:

1. This easement includes, without limitation, the right to maintain, operate, repair, modify and replace an existing manhole located wholly or partially on the portion of Lot 32, said Bemis Addition, within the Easement Area.
2. The City shall have the right, without prior institution of any suit or proceeding at law, at such time as may be necessary in the City's judgment, to enter upon the Easement Area for the purposes herein described, without incurring any legal obligation or liability therefor except as provided herein. In the event that the surface of the property is disturbed in the course of such work the City shall restore the surface as nearly as possible to the condition existing immediately before the property was entered upon by the City, provided that (i) the City shall not be obligated to restore any improvements in the Easement Area; and (ii) the City's obligation to restore shall not apply to the extent that any activities of the City giving rise to the need for such restoration are reasonably required due to any act by Grantee or its employees, agents, contractors, or subcontractors in violation of any of the following: (a) the terms of hereof; (b) the terms of the ~~Contract~~, (c) any applicable laws, regulations, or ordinances; or (d) the terms or conditions of any permit, consent, or agreement under which Grantee may be allowed to conduct any excavation, drilling or other activity in or near the Easement Area.
3. No buildings or other structures shall be constructed or permitted to remain within the boundaries of the Easement Area, and Grantee shall not conduct or permit any excavation, drilling or other disturbance of subsurface conditions in the Easement Area, in each case without advance written permission of the City Director of Engineering, or any other officer or board who may hereafter succeed to the jurisdiction and powers in respect to sewer lines now possessed by the Director of Engineering.
4. Grantee agrees to execute, deliver and record a separate instrument confirming this easement upon the request of the Director of Engineering.

The above-referenced plans are on file in the office of the Secretary of Transportation in Olympia, Washington.

The Grantor covenants that it will forever warrant and defend title to the above-described real property against all persons lawfully claiming or to claim by, through or under Grantor. Grantor hereby expressly limits the covenants and warranties of this deed to those herein expressed, and does hereby exclude all covenants and warranties arising or to arise by statutory or other implication.

**Appurtenant Interests in Streets and Alleys; Reservation of Bradner Place South.** The reservation of the portion of Bradner Place South described above is intended to reserve the entire fee simple interest in such excepted portion, and not merely an easement for street purposes. The Grantee, for itself and its successors and assigns, irrevocably waives and releases any and all claims or interests in and to such reserved portion, including any interest that would arise by operation of any law now or hereafter in effect related to street vacations. Except as set forth above, this conveyance includes any underlying fee interest of Grantor in streets or alleys adjacent to the Property, to the extent such interest is appurtenant to the Property under applicable law (subject to the City's continuing easements and rights therein for street and alley purposes, whether or not improved), and any such fee interest, together with any further interest in such streets or alleys that may vest in Grantee upon the vacation thereof, is subject to the condition subsequent and power of termination set forth below and in the Contract.

**Condition Subsequent.** This deed and all rights of Grantee hereunder are subject to a condition subsequent upon the occurrence of which Grantor or its governmental successors or assigns shall have the absolute right, subject only to the express limitations set forth herein, to terminate, by notice to Grantee or by reentering and taking possession of the Property, or any Lot or subdivision thereof, the estate

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conveyed under this deed and all rights of all persons claiming by or through Grantee, whereupon fee simple title to the Property, or to one or more of the Lots or subdivisions thereof, if the condition subsequent shall have terminated as to other Lots or subdivisions of the Property, shall revert entirely in Grantor or its governmental successors or assigns. The condition subsequent shall have occurred if any of the following shall occur prior to the time that Grantee shall have completed construction of the Improvements to the Property (to consist of one or more single family detached dwellings to be built in accordance with certain Construction Plans submitted by Grantee) required pursuant to the Contract and shall have obtained from Grantor a Certificate of Completion with respect thereto:

(a) Grantee or its successor in interest shall default on, fail to perform or violate Grantee's obligations with respect to the construction of the Improvements pursuant to the Contract (including without limitation obligations with respect to the nature of the Improvements and the dates for the beginning and the completion thereof), or shall abandon or substantially suspend construction work, and any such default, failure to perform, violation, abandonment or suspension shall not be cured, ended or remedied to the reasonable satisfaction of Grantor within thirty (30) days after Grantor's written demand to do so; or

(b) Grantee or its successor in interest shall, without the express written consent of Grantor, transfer any interest in the Property or cause or permit there to be placed on the Property any encumbrance or lien not authorized by the Contract, unless such encumbrance or lien is paid, removed or discharged or provision is made satisfactory to the Grantor for such payment, removal or discharge, within thirty (30) days after written demand from Grantor to do so; provided that in the case of a mechanic's or material supplier's lien or notice thereof Grantee shall have the right to prevent the occurrence of a condition subsequent pursuant to this subsection (b) by bonding or depositing security under conditions reasonably adequate to protect Grantor from such liens in the event title should revert in Grantor under the terms hereof.

Notwithstanding the foregoing, the condition subsequent and any reversion of title as a result thereof in the Grantor (1) shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (a) the lien of any mortgage or deed of trust permitted by the Contract, and (b) any rights or interest provided in the Contract for the protection of the holders of such mortgages or deeds of trust; (2) shall be extinguished and shall not apply to individual Lots of the Property for which a Certificate of Completion has been issued as provided below; and (3) shall be extinguished and shall not apply to the Property if a mortgagee under a mortgage or beneficiary under a deed of trust shall foreclose on the Property and the Property shall be sold in a judicial or nonjudicial foreclosure sale (provided that the mortgage or deed of trust was authorized by the City pursuant to the Contract).

#### Covenant.

The Grantee hereby grants and conveys to the Grantor a negative covenant, and hereby agrees for the benefit of Grantor as owner of that certain real property adjacent to the Property described on Exhibit A to this Deed, which is hereby incorporated by reference, that no improvements shall be constructed on the Property except in conformity with the site plan attached to the Contract as Attachment C (or any substitute therefor approved in writing by the City of Seattle Director of Housing and Human Services), and that no improvements shall be constructed on the Property that do not comply with the Guidelines attached to the Contract as Attachment D. This covenant shall run with the land and shall be binding upon the Grantee and its successors and assigns (but not including Grantor in the event that Grantor shall reacquire title to the Property or a portion thereof), in perpetuity, provided that upon recording of a Certificate of Completion for the Property or any portion thereof, as set forth below, this covenant shall be of no further force or effect as to the Property or such portion thereof, as the case may be.

Certificate of Completion. Upon the recording of a Certificate of Completion duly signed by the Director of Housing and Human Services of the Grantor, stating that the Improvements to the Property, or any Lot(s) of the Property, have been completed in accordance with the Contract, the condition subsequent and covenant in this deed shall be of no further force or effect with respect to the Property, or with respect to the Lot(s) specified in the Certificate, as the case may be.

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Miscellaneous. Capitalized terms not defined herein shall have the meanings set forth in the Contract. Time is of the essence of all of the provisions hereof.

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Venerria L. Knox, Director  
Department of Housing and Human Services  
By authority of Ordinance \_\_\_\_\_

APPROVED AS TO FORM ONLY:  
MARK H. SIDRAN, City Attorney

GRANTEE:  
HOMESIGHT

By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Venerria L. Knox is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Director of the Department of Housing and Human Services of THE CITY OF SEATTLE, a Washington municipal corporation, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_

(seal or stamp)

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_  
Print name: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me \_\_\_\_\_  
\_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the  
\_\_\_\_\_ that executed the within and foregoing instrument and acknowledged said  
instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein  
mentioned, and on oath stated that he was authorized to execute said instrument.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year first  
above written.

Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

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# STATE OF WASHINGTON - KING COUNTY

66734  
City of Seattle, City Clerk

—SS.

No. ORDINANCE 11

## City of Seattle

### TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on April 1, 1998, and published here by title only, will be mailed, at no cost, upon request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE 118073

AN ORDINANCE relating to the transfer of land in the I-90 Redevelopment Project area; authorizing the acceptance of the deed to I-90 Parcel 37 from the State of Washington, Department of Transportation; authorizing the sale of approximately 1.8 acres of such land to HomeSight for development of housing for sale to first-time home buyers; authorizing a contract for sale of land and deeds; and ratifying and confirming prior acts.

#### ORDINANCE 118073

AN ORDINANCE relating to the Department of Parks and Recreation; accepting a donation to The City of Seattle of certain real property located adjacent to the Duwamish Head Greenbelt, legally described as portions of Government Lot 5, Section 13, Township 24 North, Range 3 East, W. M., in King County, Washington, from H. A. and Margaret J. Winquist, husband and wife; authorizing payment of certain costs in connection with the donation; and placing the property under the jurisdiction of the Department of Parks and Recreation for open space, park and recreation purposes.

#### ORDINANCE NO. 118074

AN ORDINANCE relating to the Department of Parks and Recreation; increasing the expenditure allowance in the 1996 budget of the Department of Parks and Recreation; recreating a position and ratifying and confirming prior acts, all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 118075

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a lease agreement with Rico Burrito, Inc. for the sale of food in Center House.

#### ORDINANCE NO. 118076

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a lease agreement with Cafe Loc, Inc. for the sale of food in Center House.

Publication ordered by JUDITH PIP-  
PIN, City Clerk.

Date of official publication in Daily  
Journal of Commerce, Seattle, April 12,  
1998 4/12(60734)

## Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT01:118072-118076 76

was published on

04/12/96

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

Subscribed and sworn to before me on

04/12/96

Notary Public for the State of Washington,  
residing in Seattle

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